IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 16518 of 1997

Between:

D.Surya Rao …Petitioner

And

The Commisjsioner, Kakinada Municipality, Kakinada, E.G.District and ors.

…..Respondents.

THE HONOURABLE SRI JUSTICE BILAL NAZKI

AND

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

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WRIT PETITION No. 16518 OF 1997

ORDER:

(Per Hon’ble Sri Justice R. Subhash Reddy)

This Writ Petition is filed by the Managing Partner of a partnership firm, which constructed a building, named as, *Surya Complex*, in Kakinada of East Godavari District, challenging fixation of half-yearly property tax at Rs.52,539/, by the first respondent-Municipality, as confirmed by the appellate authority, by order dated 7.4.1997.

It is stated in the affidavit filed in support of the Writ Petition that the partnership firm has constructed the commercial complex in the premises bearing D.No.14-1-8/1, in the Ward No.8 of Kakinada, East Godavari District. It is stated that construction of the said building was started in the year 1984 and was completed in the year 1987, and, the same was assessed to property tax initially at Rs.18,000/- per half-year. It is further stated that from time to time, the property tax was revised, and, half-yearly property tax of the said building was fixed at Rs.52,539/- from the second half year of 1993-94. As against the same, the petitioner had preferred appeal No. 5 of 1995 before the appellate-Commissioner, and the appellate authority also by the impugned order dated 18-7-1996 confirmed the fixation of the property tax by the primary authority.

It is submitted by Sri MVS Suresh Kumar, the learned Counsel appearing for the petitioner that the assessment and fixation of the half yearly property tax at Rs. 52,539/- by the assessing authority, is arbitrary and illegal and the respondents have not considered the relevant aspects before fixation of property tax. It is further submitted that even the appellate authority has not considered the grounds raised in the appeal in proper perspective.

In the counter affidavit filed on behalf of the respondents, it is stated that the complex in question is a seven storied building constructed in the commercial locality of Kakinada town. It is stated, even during the year 1992, the property tax was assessed by taking monthly rental value at Rs.33,823/- and fixed tax at Rs.61,635/- per half-year. But, however, on a revision petition filed by the petitioner, the property tax of the said building was reduced. It is further stated that after amendments to the A.P. Municipalities Act, 1965, by following the new procedure, the said building was measured, and, its area is 2402.80 square meters, and, after assessing the monthly

rental value at Rs.60,005/-, the property tax was fixed at Rs. 84,368/- per half-year, with effect from 1-10-1993. Thereafter, the petitioner has filed revision petition as against the special notice served on him seeking reduction of property tax, whereupon, fresh inspection was conducted and taking into account the nature of construction, the said building was brought down from R.C.C. Posh category to R.C.C. Ordinary category and the half-yearly property tax was reduced and fixed at Rs.52,539/-. It is submitted by the learned Counsel for the respondents that the property tax was fixed as per the norms prescribed under law, by duly following the procedure, and, only to avoid the payment of the said tax, this Writ Petition is filed.

Heard the learned Counsel appearing for the parties, and, perused the material on record. From the affidavit filed in support of the Writ Petition, it is evident that the building in question, which is a multi-storied building comprising of seven floors, is situated in commercial locality. The submission of the learned Counsel for the petitioner that most of the area in the complex is vacant has no bearing on the issue involved in the Writ Petition. As per the provisions of the Andhra Pradesh Municipalities Act, 1965, and the procedure contemplated for the purpose of fixation of property tax, the monthly rental value of the building is relevant consideration for, fixation of the property tax. Having regard to the area, locality, quality of the building etc., the monthly rental value of the building will be fixed, and, accordingly, after arriving at the monthly rental value of the building in question at Rs.60,005/-, the property tax was fixed at Rs. 84,368/- per half-year, and on the revision petition being filed by the petitioner, the category of the building was changed from RCC Posh category to RCC ordinary category, and, basing on the reduced rental value of the building, the property tax was assessed at Rs.52,539/- per half-year. Further, in the order passed on the appeal preferred by the petitioner, the appellate authority has considered all the relevant aspects and rejected the appeal. The order of the appellate authority indicates that the building was let out to offices like Life Insurance Corporation of India, A.P. Electricity Board, Income Tax Department, apart from letting out the shops to several other persons. A perusal of the record would show that the assessing authority and the appellate authority have considered all the relevant aspects for fixation of the property tax for the building in question. We do not find any illegality in such fixation, or, in the order passed by the appellate authority rejecting the appeal so as to interfere with the same in exercise of powers

under Article 226 of the Constitution of India.

The Writ Petition is devoid of merits, and the same is accordingly dismissed. No order as to costs.

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(BILAL NAZKI, J)

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(R. SUBHASH REDDY,J.)

DATED: 09 --12—2005.

MSNR.